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AMENDED IN ASSEMBLY APRIL 15, 1999
AMENDED IN ASSEMBLY MARCH 24, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 222

**Introduced by Assembly Members Kuehl, Hertzberg,
Migden, and Villaraigosa**

(Principal coauthor: Senator Hayden)

**(Coauthors: Assembly Members Alquist, Aroner, Bock,
Calderon, Corbett, Davis, Dutra, Firebaugh, Gallegos,
Honda, Jackson, Keeley, Knox, Lempert, Longville,
Lowenthal, Mazzoni, Romero, Scott, Shelley, Steinberg,
Strom-Martin, Thomson, Torlakson, Vincent, Wayne,
Wesson, Wiggins, and Wright)**

(Coauthors: Senators Alpert, *Bowen*, Figueroa, McPherson,
Murray, Sher, Solis, Speier, and Vasconcellos)

January 26, 1999

An act to amend Sections 200, 220, 235, 260, 35179, 44100, 44830, 45293, 47605, 48204, 51004, 51500, 51501, 60044, 66251, 66270, 66292, 69535, 69762, 69958, 72011, 72014, 87100, 87400, 88112, and 89757 of, and to add Sections 212.6, 215, 66262.6, and 66265 to, the Education Code, relating to instructional services and programs.

LEGISLATIVE COUNSEL'S DIGEST

AB 222, as amended, Kuehl. Education: sexual orientation: nondiscrimination.

(1) Existing law prohibits a person from being subjected to discrimination on the basis of sex, ethnic group identification, race, national origin, color, or mental or physical disability in any program or activity conducted by an educational institution, including, among others, a public or private preschool, elementary, or secondary school or institution, the governing board of a school district, a public or private institution of vocational, professional, or postsecondary education, the governing board of a community college district, the Regents of the University of California, or the Trustees of the California State University, that receives, or benefits from, state financial assistance or enrolls pupils who receive state financial assistance.

This bill would prohibit this discrimination on the basis of sex, ethnic group identification, race, national origin, color, or mental or physical disability, whether any of those characteristics is actual or perceived, and would add sexual orientation, defined as actual or perceived heterosexuality, homosexuality, or bisexuality, as a prohibited basis for discrimination.

(2) Existing law provides that the governing board of a school district and the governing board of a community college district have the primary responsibility for ensuring that programs and activities under their jurisdiction are free from discrimination based on ethnic group identification, religion, age, sex, color, or physical or mental disability.

This bill would provide that the governing board of a school district and the governing board of a community college district have the primary responsibility for ensuring that programs and activities under their jurisdiction are free from discrimination based upon ethnic group identification, religion, age, sex, color, or physical or mental disability, whether any of those characteristics is actual or perceived. The bill would also add sexual orientation to the basis on which discrimination is prohibited, thereby imposing a state-mandated local program.

(3) Existing law prohibits discrimination based on race, sex, ethnicity, or religion in areas relating to employment of teachers and classified school employees, certain school district residency requirements, various postsecondary



financial aid programs, the uses of certain funds of the California State University, and community college services, classes, and programs.

Existing law prohibits racial, sex, or ethnic discrimination in any aspect of the operation of alternative schools, charter schools, interscholastic athletics, or the Demonstration Scholarship Program.

This bill would prohibit discrimination on the basis of race, sex, or ethnic group identification, whether actual or perceived. The bill would also add sexual orientation as a prohibited basis for discrimination, and would delete the Demonstration Scholarship Program from the above-described law.

(4) Existing law prohibits a teacher from giving instruction and a school district from sponsoring an activity that reflects adversely on persons because of their race, sex, color, creed, handicap, national origin, or ancestry.

This bill would prohibit these actions if they reflect adversely on persons on the basis of their race, sex, color, creed, handicap, national origin, or ancestry, whether those characteristics are actual or perceived, or because of their sexual orientation.

(5) Existing law prohibits the State Board of Education and the governing board of a school district from adopting instructional materials that contain any matter that reflects adversely on persons because of their race, sex, color, creed, handicap, national origin, or ancestry.

This bill would prohibit the adoption of instructional materials that contain any matter that reflects adversely on persons on the basis of their race, sex, color, creed, disability, national origin, or ancestry, whether those characteristics are actual or perceived, or because of their sexual orientation, thereby imposing a state-mandated local program in the case of school and community college districts.

(6) This bill would be named the Dignity for All Students Act.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the

creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act may be cited as the “Dignity for
2 All Students Act.”

3 SEC. 2. Section 200 of the Education Code is amended
4 to read:

5 200. It is the policy of the State of California to afford
6 all persons in public schools, regardless of their sex, sexual
7 orientation, ethnic group identification, race, national
8 origin, religion, or mental or physical disability, equal
9 rights and opportunities in the educational institutions of
10 the state. The purpose of this chapter is to prohibit acts
11 which are contrary to that policy and to provide remedies
12 therefor.

13 SEC. 3. Section 212.6 is added to the Education Code,
14 to read:

15 212.6. “Sexual orientation” means actual or perceived
16 heterosexuality, homosexuality, or bisexuality.

17 SEC. 3.5. Section 215 is added to the Education Code,
18 to read:

19 215. For purposes of this chapter, “sex,” “sexual
20 orientation,” “ethnic group identification,” “race,”
21 “national origin,” “color,” “religion,” “age,” and “mental
22 or physical disability” means that characteristic, whether
23 actual or perceived.

24 SEC. 4. Section 220 of the Education Code is amended
25 to read:

26 220. No person shall be subjected to discrimination on
27 the basis of sex, sexual orientation, ethnic group

1 identification, race, national origin, religion, color, or
2 mental or physical disability in any program or activity
3 conducted by an educational institution that receives, or
4 benefits from, state financial assistance or enrolls pupils
5 who receive state student financial aid.

6 SEC. 5. Section 235 of the Education Code is amended
7 to read:

8 235. There shall be no discrimination on the basis of
9 race, sex, sexual orientation, or ethnic group
10 identification in any aspect of the operation of alternative
11 schools or charter schools.

12 SEC. 6. Section 260 of the Education Code is amended
13 to read:

14 260. The governing board of a school district has the
15 primary responsibility for ensuring that school district
16 programs and activities are free from discrimination
17 based on any of the following characteristics, whether
18 actual or perceived: ethnic group identification, religion,
19 age, sex, sexual orientation, color, or physical or mental
20 disability. The governing board of a school district also has
21 the primary responsibility for monitoring compliance
22 with any and all rules and regulations promulgated
23 pursuant to Section 11138 of the Government Code.

24 SEC. 7. Section 35179 of the Education Code is
25 amended to read:

26 35179. (a) Each school district governing board has
27 general control of, and is responsible for, all aspects of the
28 interscholastic athletic policies, programs, and activities
29 in its district, including, but not limited to, eligibility,
30 season of sport, number of sports, personnel, and sports
31 facilities. In addition, the board shall assure that all
32 interscholastic policies, programs, and activities in its
33 district are in compliance with state and federal law.

34 (b) Governing boards may enter into associations or
35 consortia with other boards for the purpose of governing
36 regional or statewide interscholastic athletic programs by
37 permitting the public schools under their jurisdictions to
38 enter into a voluntary association with other schools for
39 the purpose of enacting and enforcing rules relating to

1 eligibility for, and participation in, interscholastic athletic
2 programs among and between schools.

3 (c) Each governing board, or its designee, shall
4 represent the individual schools located within its
5 jurisdiction in any voluntary association of schools formed
6 or maintained pursuant to this section.

7 (d) No voluntary interscholastic athletic association, of
8 which any public school is a member, shall discriminate
9 against, or deny the benefits of any program to, any
10 person on the basis of any of the following characteristics,
11 whether actual or perceived: race, sex, sexual orientation,
12 or ethnic group identification.

13 (e) Interscholastic athletics is defined as those policies,
14 programs, and activities that are formulated or executed
15 in conjunction with, or in contemplation of, athletic
16 contests between two or more schools, either public or
17 private.

18 (f) This section shall remain in effect only until
19 January 1, 2001, and as of that date is repealed, unless a
20 later enacted statute, that is enacted before January 1,
21 2001, deletes or extends that date.

22 SEC. 8. Section 44100 of the Education Code is
23 amended to read:

24 44100. The Legislature finds and declares that:

25 (a) Generally, California school districts employ a
26 disproportionately low number of racial and ethnic
27 minority classified and certificated employees and a
28 disproportionately low number of women and members
29 of racial and ethnic minorities in administrative positions.

30 (b) It is educationally sound for the minority pupil
31 attending a racially impacted school to have available to
32 him or her the positive image provided by minority
33 classified and certificated employees. It is likewise
34 educationally sound for the pupil from the majority group
35 to have positive experiences with minority people which
36 can be provided, in part, by having minority classified and
37 certificated employees at schools where the enrollment
38 is largely made up of majority group pupils. It is also
39 educationally important for pupils to observe that women

1 as well as men can assume responsible and diverse roles
2 in society.

3 (c) Past employment practices created artificial
4 barriers and past efforts to promote additional action in
5 the recruitment, employment, and promotion of women
6 and minorities have not resulted in a substantial increase
7 in employment opportunities for these persons.

8 (d) Lessons concerning democratic principles and the
9 richness which racial diversity brings to our national
10 heritage can be ~~best taught~~ *taught best* by the presence
11 of staffs of mixed races and ethnic groups working toward
12 a common goal.

13 It is the intent of the Legislature to establish and
14 maintain a policy of equal opportunity in employment for
15 all persons in every aspect of personnel policy and
16 practice in employment, development, advancement,
17 and treatment of persons employed in the public school
18 system, and to promote the total realization of equal
19 employment opportunity through a continuing
20 affirmative action employment program.

21 The Legislature recognizes that it is not enough to
22 proclaim that public employers do not discriminate in
23 employment but that effort must also be made to build a
24 community in which opportunity is equalized. It is the
25 intent of the Legislature to require educational agencies
26 to adopt and implement plans for increasing the numbers
27 of women and minority persons at all levels of
28 responsibility.

29 It is also the intent of the Legislature to prohibit
30 discrimination based on race, sex, sexual orientation,
31 color, religion, age, disability, ancestry, or national origin
32 in every aspect of personnel policy and practice in
33 employment, development, advancement, and
34 treatment of persons employed in the public school
35 system.

36 SEC. 9. Section 44830 of the Education Code is
37 amended to read:

38 44830. (a) A governing board of a school district shall
39 employ for positions requiring certification qualifications,
40 only persons who possess the qualifications therefor

1 prescribed by law. It is contrary to the public policy of this
2 state for any person or persons charged, by the governing
3 boards, with the responsibility of recommending persons
4 for employment by the boards to refuse or to fail to do so
5 on the basis of any of the following characteristics of the
6 applicants for employment, whether actual or perceived:
7 race, color, religious creed, sex, sexual orientation, or
8 national origin.

9 (b) Commencing on February 1, 1983, no school
10 district governing board shall initially hire on a
11 permanent, temporary, or substitute basis a certificated
12 person seeking employment in the capacity designated in
13 his or her credential unless that person has demonstrated
14 basic skills proficiency as provided in Section 44252.5 or
15 unless the person is exempted from the requirement by
16 subdivisions (c), (d), (e), (f), (g), (h), (i), (j), (k), (l),
17 or (m).

18 (1) The governing board of a school district, with the
19 authorization of the Commission on Teacher
20 Credentialing, may administer the basic skills proficiency
21 test required under Sections 44252 and 44252.5.

22 (2) The superintendent, in conjunction with the
23 commission and local governing boards, shall take steps
24 necessary to ensure the effective implementation of this
25 subdivision.

26 It is the intent of the Legislature that in effectively
27 implementing the provisions of this subdivision, school
28 district governing boards shall direct superintendents of
29 schools to prepare for emergencies by developing a pool
30 of qualified emergency substitute teachers. This
31 preparation shall include public notice of the test
32 requirements and of the dates and locations of
33 administrations of the tests. District governing boards
34 shall make special efforts to encourage individuals who
35 are known to be qualified in other respects as substitutes
36 to take the state basic skills proficiency test at its earliest
37 administration.

38 (3) Demonstration of proficiency in reading, writing,
39 and mathematics by any person pursuant to Section 44252
40 shall satisfy the requirements of this subdivision.

1 (c) (1) A certificated person shall not be required to
2 take the state basic skills proficiency test if he or she has
3 been employed in a position requiring certification in any
4 school district within 39 months prior to employment
5 with the district. A person holding a valid California
6 credential who has not been employed in a position
7 requiring certification in any school district within 39
8 months prior to employment and who has not taken the
9 state basic skills proficiency test, but who has passed a
10 basic skills proficiency examination which has been
11 developed and administered by the school district
12 offering that person employment, may be employed by
13 the governing board of that school district on a temporary
14 basis on the condition that he or she will take the state
15 basic skills proficiency test within one year of the date of
16 his or her employment.

17 (2) A certificated person who is employed for
18 purposes of the class size reduction program set forth in
19 Chapter 6.10 (commencing with Section 52120) of Part 28
20 shall not be required to take the state basic skills
21 proficiency test if he or she has been employed in a
22 position requiring certification in any school district
23 within 39 months prior to employment with the district.
24 A person holding a valid California credential who has not
25 been employed in a position requiring certification in any
26 school district within 39 months prior to employment for
27 purposes of the class size reduction program and who has
28 not taken the state basic skills proficiency test may be
29 employed by the governing board of that school district
30 on a temporary basis on the condition that he or she will
31 take the state basic skills proficiency test within one
32 calendar year of the date of his or her employment.

33 (d) Nothing in this section shall require a person
34 employed solely for purposes of teaching adults in an
35 apprenticeship program, approved by the
36 Apprenticeship Standards Division of the Department of
37 Industrial Relations, to pass the state proficiency
38 assessment instrument as a condition of employment.

39 (e) Nothing in this section shall require the holder of
40 a child care permit or a permit authorizing service in a

1 development center for the handicapped to take the state
2 basic skills proficiency test, so long as the holder of the
3 permit is not required to have a baccalaureate degree.

4 (f) Nothing in this section shall require the holder of
5 a credential issued by the commission who seeks an
6 additional credential or authorization to teach, to take the
7 state basic skills proficiency test.

8 (g) Nothing in this section shall require the holder of
9 a credential to provide service in the health profession to
10 take the state basic skills proficiency test, if that person
11 does not teach in the public schools.

12 (h) If the basic skills proficiency test is not
13 administered at the time of hiring, the holder of a
14 vocational designated subject credential who has not
15 already taken and passed the basic skills proficiency test
16 may be hired on the condition that he or she will take the
17 test at its next local administration.

18 (i) If the holder of a vocational designated subject
19 credential does not pass a proficiency assessment in basic
20 skills pursuant to this section, he or she shall be given one
21 year in which to retake and pass the proficiency
22 assessment in basic skills. If at the expiration of the
23 one-year period he or she has not passed the proficiency
24 assessment in basic skills, he or she shall be subject to
25 dismissal under procedures established in Article 3
26 (commencing with Section 44930) of Chapter 4.

27 (j) Nothing in this section shall be construed as
28 requiring the holder of a vocational designated subject
29 credential to pass the state basic skills proficiency test as
30 a condition of employment. The governing board of each
31 school district, or each governing board of a consortium
32 of school districts, or each governing board involved in a
33 joint powers agreement, which employs the holder of a
34 vocational designated subject credential shall establish its
35 own basic skills proficiency for these credentials and shall
36 arrange for those individuals to be assessed. The basic
37 skills proficiency criteria established by the governing
38 board shall be at least equivalent to the test required by
39 the district, or in the case of a consortium or a joint powers
40 agreement, by any of the participating districts, for

1 graduation from high school. The governing board or
2 boards may charge a fee to individuals being tested to
3 cover the costs of the test, including the costs of
4 developing, administering, and grading the test.

5 (k) Nothing in this section shall be construed as
6 requiring the holder of an adult education designated
7 subject credential for other than academic subjects, who
8 is employed in an instructional setting for 20 hours or less
9 per week, to pass the state proficiency assessment as a
10 condition of employment.

11 (l) Nothing in this section shall be construed to require
12 certificated personnel employed under a foreign
13 exchange program to take the state basic skills
14 proficiency test. The maximum period of exemption
15 under this subdivision shall be one year.

16 (m) Notwithstanding any other provision of law, a
17 school district may hire a certificated teacher who has not
18 taken the state basic skills proficiency test if that person
19 has not yet been afforded the opportunity to take the test.
20 The person shall then take the test at the earliest
21 opportunity and may remain employed by the district
22 pending the receipt of his or her test results.

23 SEC. 10. Section 45293 of the Education Code is
24 amended to read:

25 45293. No questions relating to political or religious
26 opinions or affiliations, race, color, national origin or
27 ancestry, sex, sexual orientation, or marital status shall be
28 asked of any applicant, or any candidate whose name has
29 been certified for appointment, nor shall any
30 discrimination be exercised therefor.

31 SEC. 11. Section 47605 of the Education Code is
32 amended to read:

33 47605. (a) (1) Except as set forth in paragraph (2),
34 a petition for the establishment of a charter school within
35 any school district may be circulated by any one or more
36 persons seeking to establish the charter school. The
37 petition may be submitted to the governing board of the
38 school district for review after either of the following
39 conditions are met:

1 (A) The petition has been signed by a number of
2 parents or guardians of pupils that is equivalent to at least
3 one-half of the number of pupils that the charter school
4 estimates will enroll in the school for its first year of
5 operation.

6 (B) The petition has been signed by a number of
7 teachers that is equivalent to at least one-half of the
8 number of teachers that the charter school estimates will
9 be employed at the school during its first year of
10 operation.

11 (2) In the case of a petition for the establishment of a
12 charter school through the conversion of an existing
13 public school, that would not be eligible for a loan
14 pursuant to subdivision (b) of Section 41365, the petition
15 may be circulated by any one or more persons seeking to
16 establish the converted charter school. The petition may
17 be submitted to the governing board of the school district
18 for review after the petition has been signed by not less
19 than 50 percent of the permanent status teachers
20 currently employed at the public school to be converted.

21 (3) A petition shall include a prominent statement
22 that a signature on the petition means that the parent or
23 guardian is meaningfully interested in having his or her
24 child, or ward, attend the charter school, or in the case of
25 a teacher's signature, means that the teacher is
26 meaningfully interested in teaching at the charter school.
27 The proposed charter shall be attached to the petition.

28 (b) No later than 30 days after receiving a petition, in
29 accordance with subdivision (a), the governing board of
30 the school district shall hold a public hearing on the
31 provisions of the charter, at which time the governing
32 board of the school district shall consider the level of
33 support for the petition by teachers employed by the
34 district, other employees of the district, and parents.
35 Following review of the petition and the public hearing,
36 the governing board of the school district shall either
37 grant or deny the charter within 60 days of receipt of the
38 petition, provided, however, that the date may be
39 extended by an additional 30 days if both parties agree to
40 the extension. In reviewing petitions for the

1 establishment of charter schools pursuant to this section,
2 the chartering authority shall be guided by the intent of
3 the Legislature that charter schools are and should
4 become an integral part of the California educational
5 system and that establishment of charter schools should
6 be encouraged. A school district governing board shall
7 grant a charter for the operation of a school under this
8 part if it is satisfied that granting the charter is consistent
9 with sound educational practice. The governing board of
10 the school district shall not deny a petition for the
11 establishment of a charter school unless it makes written
12 factual findings, specific to the particular petition, setting
13 forth specific facts to support one, or more, of the
14 following findings:

15 (1) The charter school presents an unsound
16 educational program for the pupils to be enrolled in the
17 charter school.

18 (2) The petitioners are demonstrably unlikely to
19 successfully implement the program set forth in the
20 petition.

21 (3) The petition does not contain the number of
22 signatures required by subdivision (a).

23 (4) The petition does not contain an affirmation of
24 each of the conditions described in subdivision (d).

25 (5) The petition does not contain reasonably
26 comprehensive descriptions of all of the following:

27 (A) A description of the educational program of the
28 school, designed, among other things, to identify those
29 whom the school is attempting to educate, what it means
30 to be an “educated person” in the 21st century, and how
31 learning best occurs. The goals identified in that program
32 shall include the objective of enabling pupils to become
33 self-motivated, competent, and lifelong learners.

34 (B) The measurable pupil outcomes identified for use
35 by the charter school. “Pupil outcomes,” for purposes of
36 this part, means the extent to which all pupils of the school
37 demonstrate that they have attained the skills,
38 knowledge, and attitudes specified as goals in the school’s
39 educational program.

1 (C) The method by which pupil progress in meeting
2 those pupil outcomes is to be measured.

3 (D) The governance structure of the school,
4 including, but not limited to, the process to be followed
5 by the school to ensure parental involvement.

6 (E) The qualifications to be met by individuals to be
7 employed by the school.

8 (F) The procedures that the school will follow to
9 ensure the health and safety of pupils and staff. These
10 procedures shall include the requirement that each
11 employee of the school furnish the school with a criminal
12 record summary as described in Section 44237.

13 (G) The means by which the school will achieve a
14 racial and ethnic balance among its pupils that is
15 reflective of the general population residing within the
16 territorial jurisdiction of the school district to which the
17 charter petition is submitted.

18 (H) Admission requirements, if applicable.

19 (I) The manner in which annual, independent,
20 financial audits shall be conducted, which shall employ
21 generally accepted accounting principles, and the
22 manner in which audit exceptions and deficiencies shall
23 be resolved to the satisfaction of the chartering authority.

24 (J) The procedures by which pupils can be suspended
25 or expelled.

26 (K) The manner by which staff members of the
27 charter schools will be covered by the State Teachers'
28 Retirement System, the Public Employees' Retirement
29 System, or federal social security.

30 (L) The public school attendance alternatives for
31 pupils residing within the school district who choose not
32 to attend charter schools.

33 (M) A description of the rights of any employee of the
34 school district upon leaving the employment of the school
35 district to work in a charter school, and of any rights of
36 return to the school district after employment at a charter
37 school.

38 (N) The procedures to be followed by the charter
39 school and the entity granting the charter to resolve
40 disputes relating to provisions of the charter.

(c) (1) Charter schools shall meet all statewide standards and conduct the pupil assessments required pursuant to Section 60605 and any other statewide standards authorized in statute or pupil assessments applicable to pupils in noncharter public schools.

(2) Charter schools shall on a regular basis consult with their parents and teachers regarding the school's educational programs.

(d) (1) In addition to any other requirement imposed under this part, a charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations, shall not charge tuition, and shall not discriminate against any pupil on the basis of any of the following characteristics, whether actual or perceived: ethnic group identification, national origin, gender, sexual orientation, or disability. Except as provided in paragraph (2), admission to a charter school shall not be determined according to the place of residence of the pupil, or of his or her parent or guardian, within this state, except that any existing public school converting partially or entirely to a charter school under this part shall adopt and maintain a policy giving admission preference to pupils who reside within the former attendance area of that public school.

(2) (A) A charter school shall admit all pupils who wish to attend the school.

(B) However, if the number of pupils who wish to attend the charter school exceeds the school's capacity, attendance, except for existing pupils of the charter school, shall be determined by a public random drawing. Preference shall be extended to pupils currently attending the charter school and pupils who reside in the district. Other preferences may be permitted by the chartering authority on an individual school basis and only if consistent with the law.

(C) In the event of a drawing, the chartering authority shall make reasonable efforts to accommodate the growth of the charter school and, in no event, shall take any action to impede the charter school from expanding enrollment to meet pupil demand.

1 (e) No governing board of a school district shall
2 require any employee of the school district to be
3 employed in a charter school.

4 (f) No governing board of a school district shall require
5 any pupil enrolled in the school district to attend a charter
6 school.

7 (g) The governing board of a school district shall
8 require that the petitioner or petitioners provide
9 information regarding the proposed operation and
10 potential effects of the school, including, but not limited
11 to, the facilities to be utilized by the school, the manner
12 in which administrative services of the school are to be
13 provided, and potential civil liability effects, if any, upon
14 the school and upon the school district. The petitioner or
15 petitioners shall also be required to provide financial
16 statements that include a proposed first-year operational
17 budget, including startup costs, and cash-flow and
18 financial projections for the first three years of operation.

19 (h) In reviewing petitions for the establishment of
20 charter schools within the school district, the governing
21 board of the school district shall give preference to
22 petitions that demonstrate the capability to provide
23 comprehensive learning experiences to pupils identified
24 by the petitioner or petitioners as academically low
25 achieving pursuant to the standards established by the
26 State Department of Education under Section 54032.

27 (i) Upon the approval of the petition by the governing
28 board of the school district, the petitioner or petitioners
29 shall provide written notice of that approval, including a
30 copy of the petition, to the State Board of Education.

31 (j) (1) If the governing board of a school district
32 denies a petition, the petitioner may elect to submit the
33 petition for the establishment of a charter school to either
34 the county board of education or directly to the State
35 Board of Education. The county board of education or the
36 State Board of Education, as the case may be, shall review
37 the petition pursuant to subdivision (b). If the petitioner
38 elects to submit a petition for establishment of a charter
39 school to the county board of education and the county
40 board of education denies the petition, the petitioner may

1 file a petition for establishment of a charter school with
2 the State Board of Education.

3 (2) A charter school for which a charter is granted by
4 either the county board of education or the State Board
5 of Education pursuant to this subdivision shall qualify
6 fully as a charter school for all funding and other purposes
7 of this part.

8 (3) If either the county board of education or the State
9 Board of Education fails to act on a petition within 120
10 days of receipt, the decision of the governing board of the
11 school district to deny a petition shall, thereafter, be
12 subject to judicial review.

13 (4) The State Board of Education shall adopt
14 regulations implementing this subdivision.

15 (5) Upon the approval of the petition by the county
16 board of education, the petitioner or petitioners shall
17 provide written notice of that approval, including a copy
18 of the petition to the State Board of Education.

19 (k) (1) The State Board of Education may, by mutual
20 agreement, designate its supervisory and oversight
21 responsibilities for a charter school approved by the State
22 Board of Education to any local education agency in the
23 county in which the charter school is located or to the
24 governing board of the school district that first denied the
25 petition.

26 (2) The designated local education agency shall have
27 all monitoring and supervising authority of a chartering
28 agency, including, but not limited to, powers and duties
29 set forth in Section 47607, except the power of revocation,
30 which shall remain with the State Board of Education.

31 (3) A charter school that has been granted its charter
32 by the State Board of Education and elects to seek
33 renewal of its charter shall, prior to expiration of the
34 charter, submit its petition for renewal to the governing
35 board of the school district that initially denied the
36 charter. If the governing board of the school district
37 denies the school's petition for renewal, the school may
38 petition the State Board of Education for renewal of its
39 charter.

1 (l) Teachers in charter schools shall be required to
2 hold a Commission on Teacher Credentialing certificate,
3 permit, or other document equivalent to that which a
4 teacher in other public schools would be required to hold.
5 These documents shall be maintained on file at the
6 charter school and shall be subject to periodic inspection
7 by the chartering authority. It is the intent of the
8 Legislature that charter schools be given flexibility with
9 regard to noncore, noncollege preparatory courses.

10 SEC. 12. Section 48204 of the Education Code, as
11 amended by Section 19 of Chapter 299 of the Statutes of
12 1997, is amended to read:

13 48204. Notwithstanding Section 48200, a pupil shall be
14 deemed to have complied with the residency
15 requirements for school attendance in a school district,
16 provided he or she is any of the following:

17 (a) A pupil placed within the boundaries of that school
18 district in a regularly established licensed children's
19 institution, or a licensed foster home, or a family home
20 pursuant to a commitment or placement under Chapter
21 2 (commencing with Section 200) of Part 1 of Division 2
22 of the Welfare and Institutions Code. An agency placing
23 a pupil in a home or institution described in this
24 subdivision shall provide evidence to the school that the
25 placement or commitment is pursuant to law.

26 (b) A pupil for whom interdistrict attendance has
27 been approved pursuant to Chapter 5 (commencing with
28 Section 46600) of Part 26.

29 (c) A pupil whose residence is located within the
30 boundaries of that school district and whose parent or
31 legal guardian is relieved of responsibility, control, and
32 authority through emancipation.

33 (d) A pupil who lives in the home of a caregiving adult
34 that is located within the boundaries of that school
35 district. Execution of an affidavit under penalty of perjury
36 pursuant to Part 1.5 (commencing with Section 6550) of
37 Division 11 of the Family Code by the caregiving adult
38 shall be a sufficient basis for a determination that the
39 pupil lives in the caregiver's home, unless the school

1 district determines from actual facts that the pupil is not
2 living in the caregiver's home.

3 (e) A pupil residing in a state hospital located within
4 the boundaries of that school district.

5 (f) An elementary school pupil, one or both of whose
6 parents, or whose legal guardian, is employed within the
7 boundaries of that school district.

8 (1) Nothing in this subdivision requires the school
9 district within which the pupil's parents or guardians are
10 employed to admit the pupil to its schools. Districts may
11 not, however, refuse to admit pupils under this
12 subdivision on the basis, except as expressly provided in
13 this subdivision, of race, ethnic group identification, sex,
14 sexual orientation, parental income, scholastic
15 achievement, whether these characteristics are actual or
16 perceived, or any other arbitrary consideration.

17 (2) The school district in which the residency of either
18 the pupil's parents or guardians is established, or the
19 school district to which the pupil is to be transferred
20 under this subdivision, may prohibit the transfer of the
21 pupil under this subdivision if the governing board of the
22 district determines that the transfer would negatively
23 impact the district's court-ordered or voluntary
24 desegregation plan.

25 (3) The school district to which the pupil is to be
26 transferred under this subdivision may prohibit the
27 transfer of the pupil if the district determines that the
28 additional cost of educating the pupil would exceed the
29 amount of additional state aid received as a result of the
30 transfer.

31 (4) Any district governing board prohibiting a transfer
32 pursuant to paragraph (1), (2), or (3) shall identify, and
33 communicate in writing to the pupil's parent or guardian,
34 the specific reasons for that determination and shall
35 ensure that the determination, and the specific reasons
36 therefor, are accurately recorded in the minutes of the
37 board meeting in which the determination was made.

38 (5) The average daily attendance for pupils admitted
39 pursuant to this subdivision shall be calculated pursuant
40 to Section 46607.

(6) Unless approved by the sending district, this subdivision does not authorize a net transfer of pupils out of any given district, calculated as the difference between the number of pupils exiting the district and the number of pupils entering the district, in any fiscal year in excess of the following amounts:

(A) For any district with an average daily attendance for that fiscal year of less than 501, 5 percent of the average daily attendance of the district.

(B) For any district with an average daily attendance for that fiscal year of 501 or more, but less than 2,501, 3 percent of the average daily attendance of the district or 25 pupils, whichever is greater.

(C) For any district with an average daily attendance of 2,501 or more, 1 percent of the average daily attendance of the district or 75 pupils, whichever is greater.

(7) Once a pupil is deemed to have complied with the residency requirements for school attendance pursuant to this subdivision and is enrolled in a school in a school district whose boundaries include the location where one parent or both parents of a pupil is employed, or where the pupil's legal guardian is employed, the pupil shall not have to reapply in the next school year to attend a school within that school district and the district governing board shall allow the pupil to attend school through the 12th grade in that district if the parent or guardian so chooses, subject to paragraphs (1) to (6), inclusive.

(g) This section shall remain in effect only until July 1, 2003, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 2003, deletes or extends that date.

SEC. 13. Section 51004 of the Education Code is amended to read:

51004. The Legislature hereby recognizes that it is the policy of the people of the State of California to provide an educational opportunity to the end that every pupil leaving school shall have the opportunity to be prepared to enter the world of work; that every pupil who graduates from any state-supported educational

1 institution should have sufficient marketable skills for
2 legitimate remunerative employment; that every
3 qualified and eligible adult citizen shall be afforded an
4 educational opportunity to become suitably employed in
5 some remunerative field of employment; and that these
6 opportunities are a right to be enjoyed without regard to
7 race, creed, color, national origin, sex, sexual orientation,
8 or economic status.

9 The Legislature further recognizes that all pupils need
10 to be provided with opportunities to explore and make
11 career choices and to seek appropriate instruction and
12 training to support those choices. The Legislature
13 therefore finds that fairs as community resource and
14 youth leadership activities are integral to assisting and
15 guiding pupils in making career choices and therefore
16 encourage the further expansion of cooperative activities
17 between schools, youth leadership activities, and
18 community resources. Among community resources of
19 particular significance in providing information on
20 various career opportunities are vocational and
21 occupational exhibits, demonstrations and activities
22 conducted at fairs.

23 SEC. 14. Section 51500 of the Education Code is
24 amended to read:

25 51500. No teacher shall give instruction nor shall a
26 school district sponsor any activity that reflects adversely
27 upon persons because of any of the following
28 characteristics, whether actual or perceived: race, sex,
29 sexual orientation, color, creed, disability, national origin,
30 or ancestry.

31 SEC. 15. Section 51501 of the Education Code is
32 amended to read:

33 51501. No textbook or other instructional materials
34 shall be adopted by the state board or by any governing
35 board for use in the public schools which contains any
36 matter reflecting adversely upon persons on the basis of
37 any of the following characteristics, whether actual or
38 perceived: race, sex, sexual orientation, color, creed,
39 disability, national origin, or ancestry.

1 SEC. 16. Section 60044 of the Education Code is
2 amended to read:

3 60044. No instructional materials shall be adopted by
4 any governing board for use in the schools which, in its
5 determination, contains:

6 (a) Any matter reflecting adversely upon persons on
7 the basis of any of the following characteristics, whether
8 actual or perceived: race, color, creed, national origin,
9 ancestry, sex, sexual orientation, disability, or occupation.

10 (b) Any sectarian or denominational doctrine or
11 propaganda contrary to law.

12 SEC. 17. Section 66251 of the Education Code is
13 amended to read:

14 66251. It is the policy of the State of California to
15 afford all persons, regardless of their sex, sexual
16 orientation, ethnic group identification, race, national
17 origin, religion, or mental or physical disability, equal
18 rights and opportunities in the postsecondary institutions
19 of the state. The purpose of this chapter is to prohibit acts
20 that are contrary to that policy and to provide remedies
21 therefor.

22 SEC. 18. Section 66262.6 is added to the Education
23 Code, to read:

24 66262.6. “Sexual orientation” has the same meaning as
25 defined in Section 212.6.

26 SEC. 19. Section 66265 is added to the Education
27 Code, to read:

28 66265. For purposes of this chapter, “sex,” “sexual
29 orientation,” “ethnic group identification,” “race,”
30 “national origin,” “color,” “religion,” “age,” and “mental
31 or physical disability” means that characteristic, whether
32 actual or perceived.

33 SEC. 20. Section 66270 of the Education Code is
34 amended to read:

35 66270. No person shall be subjected to discrimination
36 in any program or activity conducted by any
37 postsecondary educational institution that receives, or
38 benefits from, state financial assistance or enrolls students
39 who receive state student financial aid on the basis of any
40 of the following characteristics, whether actual or

1 perceived: sex, sexual orientation, ethnic group
2 identification, race, national origin, religion, color, or
3 mental or physical disability.

4 SEC. 21. Section 66292 of the Education Code is
5 amended to read:

6 66292. (a) The governing board of a community
7 college district shall have the primary responsibility for
8 ensuring that community college district programs and
9 activities are free from discrimination based on ethnic
10 group identification, religion, age, sex, sexual orientation,
11 color, or physical or mental disability.

12 (b) The Chancellor's office of the California
13 Community Colleges shall have responsibility for
14 monitoring the compliance of each district with any and
15 all regulations adopted pursuant to Section 11138 of the
16 Government Code.

17 SEC. 22. Section 69535 of the Education Code is
18 amended to read:

19 69535. (a) Cal Grant Program awards shall be based
20 upon the financial need of the applicant. The level of
21 financial need of each applicant shall be determined by
22 the commission pursuant to Article 1.5 (commencing
23 with Section 69503).

24 (b) For the applicants so qualifying, academic criteria
25 or criteria related to past performances shall be utilized
26 as the criteria in determining eligibility for grants.

27 (c) All Cal Grant Program award recipients shall be
28 residents of California, as determined by the commission
29 pursuant to Part 41 (commencing with Section 68000),
30 and shall remain eligible only if they are in attendance
31 and making satisfactory progress through the
32 instructional programs, as determined by the
33 commission.

34 (d) Part-time students shall not be discriminated
35 against in the selection of Cal Grant Program award
36 recipients, and awards to part-time students shall be
37 roughly proportional to the time spent in the
38 instructional program, as determined by the commission.
39 First-time Cal Grant Program award recipients who are

1 part-time students shall be eligible for a full-time renewal
2 award.

3 (e) Cal Grant Program awards shall be awarded
4 without regard to any of the following characteristics,
5 whether actual or perceived: race, religion, creed, sex,
6 sexual orientation, or age.

7 (f) No applicant shall receive more than one type of
8 Cal Grant Program award concurrently. Except as
9 provided in subdivisions (b) and (c) of Section 69535.1,
10 no applicant shall:

11 (1) Receive one or a combination of Cal Grant
12 Program awards in excess of a total of four years of
13 full-time attendance in an undergraduate program.

14 (2) Have obtained a baccalaureate degree prior to
15 receiving a Cal Grant Program award, except as provided
16 in Section 69540.

17 (g) Cal Grant Program awards, except as provided in
18 subdivision (c) of Section 69535.1, may only be used for
19 educational expenses of a program of study leading
20 directly to an undergraduate degree or certificate, or for
21 expenses of undergraduate coursework in a program of
22 study leading directly to a first professional degree, but
23 for which no baccalaureate degree is awarded.

24 (h) Commencing in 1999, the commission shall, for
25 students who accelerate college attendance, increase the
26 amount of award proportional to the period of additional
27 attendance resulting from attendance in classes that
28 fulfill requirements or electives for graduation during
29 summer terms, sessions, or quarters. In the aggregate, the
30 total amount a student may receive in a four-year period
31 may not be increased as a result of accelerating his or her
32 progress to a degree by attending summer terms, sessions,
33 or quarters.

34 (i) The commission shall notify Cal Grant award
35 recipients of the availability of funding for the summer
36 term, session, or quarter through prominent notice in
37 financial aid award letters, materials, guides, electronic
38 information, and other means that may include, but not
39 be limited to, surveys, newspaper articles, or attachments

1 to communications from the commission and any other
2 published documents.

3 (j) The commission may provide by appropriate rules
4 and regulations for reports, accounting, and statements
5 from the award winner and college or university of
6 attendance pertaining to the use or application of the
7 award as the commission may deem proper.

8 (k) The commission may establish Cal Grant Program
9 awards in one hundred dollar (\$100) increments.

10 (l) A Cal Grant Program award may be utilized only
11 at the following institutions or programs:

12 (1) Any California private or independent
13 postsecondary educational institution or program that
14 participates in two of the three federal campus-based
15 student aid programs and whose students participate in
16 the Pell Grant program.

17 (2) Any nonprofit regionally accredited institution
18 headquartered and operating in California that certifies
19 to the commission that 10 percent of the institution's
20 operating budget, as demonstrated in an audited
21 financial statement, is expended for the purposes of
22 institutionally funded student financial aid in the form of
23 grants and that demonstrates to the commission that it
24 has the administrative capacity to administer the funds.

25 (3) Any California public postsecondary educational
26 institution or program.

27 SEC. 23. Section 69762 of the Education Code is
28 amended to read:

29 69762. Loans made pursuant to this chapter shall be
30 made without regard to any of the following
31 characteristics, whether actual or perceived: race,
32 religion, creed, sex, or sexual orientation.

33 SEC. 24. Section 69958 of the Education Code is
34 amended to read:

35 69958. (a) Potential work-study positions may be
36 located by the institution or by eligible students in
37 cooperation with the institution. Each position located
38 shall be critically reviewed by the appropriate student
39 financial aid and experiential education personnel to
40 determine whether it satisfies all the conditions specified

1 in Section 69960. To assist the institution in assessing the
2 position, the employer shall submit a written statement
3 to the institution which provides all of the following
4 information:

5 (1) The total number of positions available.

6 (2) A job description of each available position,
7 including the suggested rate of pay.

8 (3) The skills required of the prospective work-study
9 employee.

10 (4) The educational benefits provided by the position.

11 (b) Once the institution has approved the work-study
12 position, the employer and the institution, acting as the
13 authorized agent of the Student Aid Commission, shall
14 execute a written agreement which confirms the
15 employer's eligibility to participate in the program and its
16 willingness to comply with all program requirements,
17 and specifies the responsibilities of each of the parties.
18 The agreement shall be subject to annual renewal by
19 mutual agreement of the institution and the employer.

20 (c) Following execution of the agreement pursuant to
21 subdivision (b), the employer may interview prospective
22 work-study employees. The institution shall provide the
23 employer and each applicant for the work-study position
24 with adequate information to facilitate a proper
25 placement. Provided that the priorities specified in
26 Section 69959 have been met, the employer may indicate
27 his or her hiring preferences. No employer shall
28 discriminate between applicants on the basis of any of the
29 following characteristics, whether actual or perceived:
30 race, color, sex, sexual orientation, religion, or national
31 origin. No employer shall subject any applicant to any
32 other discriminatory practices prohibited by state or
33 federal law.

34 SEC. 25. Section 72011 of the Education Code is
35 amended to read:

36 72011. Every community college district shall provide
37 access to its services, classes, and programs without
38 regard to any of the following characteristics, whether
39 actual or perceived: race, religious creed, color, national
40 origin, ancestry, disability, sex, or sexual orientation.

1 SEC. 26. Section 72014 of the Education Code is
2 amended to read:

3 72014. No funds under the control of a community
4 college district shall ever be used for membership or for
5 any participation involving a financial payment or
6 contribution, on behalf of the district or any individual
7 employed by or associated therewith, in any private
8 organization whose membership practices are
9 discriminatory on the basis of any of the following
10 characteristics, whether actual or perceived: race, creed,
11 color, sex, sexual orientation, religion, or national origin.
12 This section does not apply to any public funds which
13 have been paid to an individual officer or employee of the
14 district as salary, or to any funds which are used directly
15 or indirectly for the benefit of student organizations.

16 SEC. 27. Section 87100 of the Education Code is
17 amended to read:

18 87100. The Legislature finds and declares that:

19 (a) Generally, California Community Colleges
20 employ a disproportionately low number of racial and
21 ethnic minority classified employees and faculty and a
22 disproportionately low number of women and members
23 of racial and ethnic minorities in administrative positions.

24 (b) It is educationally sound for the minority student
25 attending a racially impacted school to have available the
26 positive image provided by minority classified and
27 academic employees. It is likewise educationally sound
28 for the student from the majority group to have positive
29 experiences with minority people which can be provided,
30 in part, by having minority classified and academic
31 employees at schools where the enrollment is largely
32 made up of majority group students. It is also
33 educationally important for students to observe that
34 women as well as men can assume responsible and
35 diverse roles in society.

36 (c) Past employment practices created artificial
37 barriers and past efforts to promote additional action in
38 the recruitment, employment, and promotion of women
39 and minorities have not resulted in a substantial increase
40 in employment opportunities for women and minorities.

1 (d) Lessons concerning democratic principles and the
2 richness which racial diversity brings to our national
3 heritage can be best taught by the presence of staffs of
4 mixed races and ethnic groups working toward a
5 common goal.

6 It is the intent of the Legislature to establish and
7 maintain a policy of equal opportunity in employment for
8 all persons and to prohibit discrimination based on race,
9 sex, sexual orientation, color, religion, age, disability,
10 ancestry, or national origin in every aspect of personnel
11 policy and practice in employment, development,
12 advancement, and treatment of persons employed in the
13 public school system, and to promote the total realization
14 of equal employment opportunity through a continuing
15 affirmative action employment program.

16 The Legislature recognizes that it is not enough to
17 proclaim that public employers do not discriminate in
18 employment but that effort must also be made to build a
19 community in which opportunity is equalized. It is the
20 intent of the Legislature to require educational agencies
21 to adopt and implement plans for increasing the numbers
22 of women and minority persons at all levels of
23 responsibility.

24 SEC. 28. Section 87400 of the Education Code is
25 amended to read:

26 87400. Governing boards of community college
27 districts shall employ for academic positions, only persons
28 who possess the qualifications therefor prescribed by
29 regulation of the board of governors. It shall be contrary
30 to the public policy of this state for any person or persons
31 charged, by those governing boards, with the
32 responsibility of recommending persons for employment
33 by those boards to refuse or to fail to do so on the basis of
34 any of the following characteristics of the applicants for
35 employment, whether actual or perceived: race, color,
36 religious creed, sex, sexual orientation, or national origin.

37 SEC. 29. Section 88112 of the Education Code is
38 amended to read:

39 88112. No questions relating to political or religious
40 opinions or affiliations, race, color, national origin or

1 ancestry, sex, sexual orientation, or marital status shall be
2 asked of any applicant, or any candidate whose name has
3 been certified for appointment, nor shall any
4 discrimination be exercised therefor.

5 SEC. 30. Section 89757 of the Education Code is
6 amended to read:

7 89757. None of the funds enumerated in Section
8 89756, nor any of the funds of an auxiliary organization,
9 shall ever be used by any university or college for
10 membership or for any participation involving a financial
11 payment or contribution, on behalf of the institution, or
12 any individual employed by or associated therewith, in
13 any private organization whose membership practices
14 are discriminatory on the basis of any of the following
15 characteristics, whether actual or perceived: race, creed,
16 color, sex, sexual orientation, religion, or national origin.
17 This section does not apply to any public funds which
18 have been paid to an individual employee or officer as
19 salary, or to any funds which are used directly or
20 indirectly for the benefit of student organizations.

21 SEC. 31. Notwithstanding Section 17610 of the
22 Government Code, if the Commission on State Mandates
23 determines that this act contains costs mandated by the
24 state, reimbursement to local agencies and school
25 districts for those costs shall be made pursuant to Part 7
26 (commencing with Section 17500) of Division 4 of Title
27 2 of the Government Code. If the statewide cost of the
28 claim for reimbursement does not exceed one million
29 dollars (\$1,000,000), reimbursement shall be made from
30 the State Mandates Claims Fund.

